# 42 U.S.C. §1983 – EXIGENT ENTRY

**Stanton v. Sims**
**--- U.S. --- (2013)**
**Decided November 4, 2013**

**FACTS:** On May 27, 2008, Officer Stanton and his partner (La Mesa, CA, PD) responded to an "unknown disturbance" involving a subject with a baseball bat. Officer Stanton was familiar with the gang violence associated with the area. The two officers, uniformed and in a marked vehicle, approached the location and spotted three men walking in the street. When the men saw the officers, two of then "turned into a nearby apartment complex." The third, Patrick, crossed the street 75 feet in front of the cruiser and "ran or quickly walked toward a residence." That residence belonged to Sims.

Officer Stanton considered Patrick's actions suspicious and got out to detain him. He called out "police" and "ordered Patrick to stop in a voice loud enough for all in the area to hear." Patrick looked toward the officer "ignored his lawful orders," and went into the front yard, through a gate. When the gate closed, the six-foot-high privacy fence, blocked Officer Stanton's view. The officer believed Patrick had committed a misdemeanor under California law, by failing to stop, and he also feared for his own safety.[1] He "made the 'split-second decision' to kick open the gate in pursuit of Patrick." Unfortunately, Sims was, herself, standing behind the gate when he did so, and she was struck by the "swinging gate," suffering a head and shoulder injury.

Sims filed suit against Officer Patrick under 42 U.S.C. §1983, for his entry into her property. The District Court ruled in Stanton's favor, finding the entry to be justified "by the potentially dangerous situation." (The court also agreed that even if a constitutional violation did occur, the officer was entitled to qualified immunity "because no clearly established law put him on notice that his conduct was unconstitutional." Sims appealed, and the Ninth Circuit Court of Appeals reversed, ruling that Sims was "entitled to the same expectation of privacy in her curtilage as in her home itself, because there was no immediate danger, and because Patrick had committed only the minor offense of disobeying a police officer." Further, the appellate court agreed that was clearly established and as such, the officer was not entitled to qualified immunity.

Stanton appealed and the U.S. Supreme Court granted certiorari.

**ISSUE:** If the law is not settled on a particular issue and the officer act in a manner not "plainly incompetent," is the officer entitled to qualified immunity?

[1] Kentucky does not have a clearly equivalent statute.

**HOLDING:** Yes

**DISCUSSION:** The Court noted, initially, that the law was clearly not settled on the issue of when a pursuit into a curtilage might be warranted when the underlying offense is relatively minor at the time. The Court noted that under Ashcroft v. al-Kidd, qualified immunity "'gives government officials breathing room to make reasonable but mistaken judgments,' and 'protects all but the plainly incompetent or those who knowingly violate the law."[2] In this case, the Court agreed that there was no suggestion that Officer Stanton "knowingly violated the Constitution," the question being whether he was "plainly incompetent" in his decisionmaking. The Court noted that the Ninth Circuit concluded that he was, "despite the fact that federal and state courts nationwide are sharply divided on the question whether an officer with probable cause to arrest a suspect for a misdemeanor may enter a home without a warrant while in hot pursuit of that suspect."

The Ninth Circuit had looked to two cases, Welsh v. Wisconsin[3] and U.S. v. Johnson.[4] In Welsh, however, the Court agreed that no "hot pursuit" had actually occurred, the officers had gone to his home at some time later, entered without a warrant or consent, and made an arrest for a nonjailable traffic offense. The court had agreed that "application of the exigent circumstances exception in the context of a home entry should rarely be sanctioned," but agreed that it "did not lay down a categorical rule for all cases involving minor offenses, saying only that a warrant is 'usually' required." Johnson, also, did not involve a hot pursuit, as the subject had escaped some 30 minutes earlier. The Court agreed that the Ninth Circuit read both cases "too broadly," in that neither case involved a hot pursuit. Curiously, the court noted, the Ninth Circuit cited U.S. v. Santana[5] with approval, a case in which the officer made a warrantless entry while in hot pursuit. (Although Santana involved a felony, the Court expressly did not limit its holding on that fact.)

The Court emphasized, it "held not that warrantless entry to arrest a misdemeanor is never justified, but only that such entry should be rare." In fact, the Court cited to two California state court cases that held "where the pursuit into the home was based on an arrest set in motion in a public place, the fact that the offenses justifying the initial detention or arrest were misdemeanors is of no significance in determining the validity of the entry without a warrant."[6] The Court found it "especially troubling that the Ninth

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[2] 563 U.S. --- (2011); see also Malley v. Briggs, 475 U.S. 335 (1986).
[3] 466 U.S. 740 (1984).
[4] 256 F.3d 895 (2001).
[5] 427 U.S. 38 (1976).
[6] People v. Lloyd, 265 Cal. Rptr. 422 (1989); also cited In re Lavoyne M., 270 Cal. Rptr. 394 (1990).

Circuit would conclude that Stanton was plainly incompetent – and subject to personal liability for damages – based on actions that were lawful according to courts in the jurisdiction where he acted."

The Court concluded that it did not "express any view on whether Officer Stanton's entry into Sims' yard in pursuit of Patrick was constitutional." It ruled, instead, that the officer *may* have been mistaken in his belief, but he was not "plainly incompetent." As such, he was entitled to qualified immunity.

The U.S. Supreme Court reversed the decision of the Ninth Circuit and remanded the case for further proceedings.

Full Text of Opinion: http://www.supremecourt.gov/opinions/13pdf/12-1217_bpmc.pdf